

**E2SHB 2844** - S COMM AMD  
By Committee on Ways & Means

ADOPTED 03/06/2008

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that pollution  
4 from storm water runoff is a leading source of pollution in Puget Sound  
5 and in important water bodies in eastern Washington such as the  
6 Columbia river. The decisions and actions of those living in adjacent  
7 communities impact the health of these water bodies. The loss of  
8 native and mature nonnative, nonnaturalized trees in urban areas  
9 throughout the region has contributed significantly to storm water and  
10 flooding problems in the region.

11 (b) The legislature further finds that the preservation and  
12 enhancement of city trees and urban and community forests are one of  
13 the most cost-effective ways to protect and improve water quality, air  
14 quality, human well-being, and our quality of life.

15 (c) The legislature further finds that appropriate selection,  
16 siting, and installation of trees can reduce heating and cooling energy  
17 costs and related greenhouse gas emissions. Retaining natural soils  
18 and vegetation, managing urban trees, planting additional trees, and  
19 restoring the functionality of forests on public lands can reduce the  
20 amount of pollutants in our communities, reduce utility infrastructure  
21 damage, reduce requirements for storm water retention and treatment  
22 facilities, and reduce flooding caused by major storm events that can  
23 cost the state economy millions of dollars a day. Reforesting urban  
24 stream channels can reduce or eliminate regulatory requirements such as  
25 total maximum daily load requirements.

26 (d) The legislature further finds that there are innovative urban  
27 forest management programs and partnerships led by many cities across  
28 the state. However, there is no statewide inventory or assessment of  
29 our community and urban forests. Few cities have clear goals and  
30 standards for their urban forests. About twelve percent of

1 Washington's cities have urban forest management plans and less than  
2 half of Washington's communities have tree ordinances. Many  
3 communities report the need for better enforcement.

4 (2) It is the intent of the legislature to:

5 (a) Recognize and support city, town, and county efforts to  
6 conserve, protect, improve, and expand Washington's urban forest in  
7 order to reduce storm water pollution in Puget Sound, flooding, energy  
8 consumption and greenhouse gas emissions, air pollution, and storm  
9 impacts to utility infrastructure.

10 (b) Assist cities, towns, and counties by developing a statewide  
11 community and urban forest inventory, assessment, model plans, and  
12 model ordinances, and by providing technical assistance, incentives,  
13 and resources to help cities, towns, and counties become evergreen  
14 communities by utilizing these tools, maintenance programs, new  
15 partnerships, and community involvement.

16 (c) Develop the statewide community and urban forest inventory in  
17 a way that is compatible with emerging reporting protocols and that  
18 could facilitate future access to carbon markets for cities.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Community and urban forest assessment" means an analysis of  
22 the community and urban forest inventory to: Establish the scope and  
23 scale of forest-related benefits and services; determine the economic  
24 valuation of such benefits, highlight trends, and issues of concern;  
25 identify high priority areas to be addressed; outline strategies for  
26 addressing the critical issues and urban landscapes; and identify  
27 opportunities for retaining trees, expanding forest canopy, and  
28 planting additional trees to sustain Washington's urban and community  
29 forests.

30 (2) "Community and urban forest inventory" means a management tool  
31 designed to gauge the condition, management status, health, and  
32 diversity of a community and urban forest. An inventory may evaluate  
33 individual trees or groups of trees or canopy cover within community  
34 and urban forests, and will be periodically updated by the department  
35 of natural resources.

36 (3) "Department" means the department of community, trade, and  
37 economic development.

1 (4) "Evergreen community ordinances" means ordinances adopted by  
2 the legislative body of a city, town, or county that relate to urban  
3 forests and are consistent with this chapter.

4 (5) "Evergreen community" means a city, town, or county designated  
5 as such under section 7 of this act.

6 (6) "Management plan" means an evergreen community urban forest  
7 management plan developed pursuant to this chapter.

8 (7) "Public facilities" has the same meaning as defined in RCW  
9 36.70A.030.

10 (8) "Public forest" means urban forests owned by the state, city,  
11 town, county, or other public entity within or adjacent to the urban  
12 growth areas.

13 (9) "Reforestation" means establishing and maintaining trees and  
14 urban forest canopy in plantable spaces such as street rights-of-way,  
15 transportation corridors, interchanges and highways, riparian areas,  
16 unstable slopes, shorelines, public lands, and property of willing  
17 private land owners.

18 (10) "Tree canopy" means the layer of leaves, branches, and stems  
19 of trees that cover the ground when viewed from above and that can be  
20 measured as a percentage of a land area shaded by trees.

21 (11) "Urban forest" has the same definition as provided for the  
22 term "community and urban forest" in RCW 76.15.010.

23 **Sec. 3.** RCW 76.15.020 and 1991 c 179 s 4 are each amended to read  
24 as follows:

25 (1) The department may establish and maintain a program in  
26 community and urban forestry to accomplish the purpose stated in RCW  
27 76.15.007. The department may assist municipalities and counties in  
28 establishing and maintaining community and urban forestry programs and  
29 encourage persons to engage in appropriate and improved tree management  
30 and care.

31 (2) The department may advise, encourage, and assist  
32 municipalities, counties, and other public and private entities in the  
33 development and coordination of policies, programs, and activities for  
34 the promotion of community and urban forestry.

35 (3) The department may appoint a committee or council, in addition  
36 to the technical advisory committee created in section 5 of this act to

1 advise the department in establishing and carrying out a program in  
2 community and urban forestry.

3 (4) The department may assist municipal and county tree maintenance  
4 programs by making surplus equipment available on loan where feasible  
5 for community and urban forestry programs and cooperative projects.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.15 RCW  
7 to read as follows:

8 (1)(a) The department may, in collaboration with educational  
9 institutions, municipalities, corporations, the technical advisory  
10 committee created in section 5 of this act, state and national service  
11 organizations, and environmental organizations, conduct a prioritized  
12 statewide inventory of community and urban forests.

13 (b) For purposes of efficiency, existing data and current inventory  
14 technologies must be utilized in the development of the inventory.  
15 Statewide data must be maintained and periodically updated by the  
16 department and made available to every municipality in the state.

17 (c) The criteria established for the statewide community and urban  
18 forest inventory must support the planning needs of local governments.

19 (d) The criteria for the statewide community and urban forest  
20 inventory may include but not be limited to: Tree size, species,  
21 location, site appropriateness, condition and health, contribution to  
22 canopy cover and volume, available planting spaces, and ecosystem,  
23 economic, social, and monetary value.

24 (e) In developing the statewide community and urban forest  
25 inventory, the department shall strive to enable Washington cities'  
26 urban forest managers to access carbon markets by working to ensure the  
27 inventory developed under this section is compatible with existing and  
28 developing urban forest reporting protocols designed to facilitate  
29 access to those carbon markets.

30 (2) The department may, in collaboration with a statewide  
31 organization representing urban and community forestry programs, and  
32 with the evergreen communities partnership task force established in  
33 section 17 of this act, conduct a community and urban forest assessment  
34 and develop recommendations to the appropriate committees of the  
35 legislature to improve community and urban forestry in Washington.

36 (3) The inventory and assessment in this section must be capable of

1 supporting the adoption and implementation of evergreen community  
2 management plans and ordinances described in section 10 of this act.

3 (4) The department may, in collaboration with municipalities, the  
4 technical advisory committee created in section 5 of this act, and a  
5 statewide organization representing urban and community forestry  
6 programs, develop an implementation plan for the inventory and  
7 assessment of the community and urban forests in Washington.

8 (5)(a) The criteria and implementation plan for the statewide  
9 community and urban forest inventory and assessment required under this  
10 section must be completed by December 1, 2008. Upon the completion of  
11 the criteria and implementation plan's development, the department  
12 shall report the final product to the appropriate committees of the  
13 legislature.

14 (b) An initial inventory and assessment, consisting of the  
15 community and urban forests of the willing municipalities located in  
16 one county located east of the crest of the Cascade mountains and the  
17 willing municipalities located in one county located west of the crest  
18 of the Cascade mountains must be completed by June 1, 2010.

19 (6) The requirements of this section are subject to the  
20 availability of amounts appropriated for the specific purposes of this  
21 section.

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 76.15 RCW  
23 to read as follows:

24 (1) The commissioner of public lands shall appoint a technical  
25 advisory committee to provide advice to the department during the  
26 development of the criteria and implementation plan for the statewide  
27 community and urban forest inventory and assessment required under  
28 section 4 of this act.

29 (2) The technical advisory committee must include, but not be  
30 limited to, representatives from the following groups: Arborists;  
31 municipal foresters; educators; consultants; researchers; public works  
32 and utilities professionals; information technology specialists; and  
33 other affiliated professionals.

34 (3) The technical advisory committee members shall serve without  
35 compensation. Advisory committee members who are not state employees  
36 may receive reimbursement for travel expenses as provided by RCW

1 43.03.050 and 43.03.060. Costs associated with the technical advisory  
2 committee may be paid from the general fund appropriation made  
3 available to the department for community and urban forestry.

4 (4) The technical advisory committee created in this section must  
5 be disbanded by the commissioner upon the completion of the criteria  
6 and implementation plan for the statewide community and urban forest  
7 inventory and assessment required under section 4 of this act.

8 NEW SECTION. **Sec. 6.** The department shall, in the implementation  
9 of this chapter, coordinate with the department of natural resources.  
10 Additionally, in the development of the model evergreen community urban  
11 forest management plans and ordinances required by section 10 of this  
12 act, the department shall utilize the technical expertise of the  
13 department of natural resources regarding arboriculture, tree  
14 selection, and maintenance.

15 NEW SECTION. **Sec. 7.** (1) The department, with the advice of the  
16 evergreen communities partnership task force created in section 17 of  
17 this act, shall develop the criteria for an evergreen community  
18 recognition program whereby the state can recognize cities, towns, and  
19 counties, to be designated as an evergreen community, who are  
20 developing excellent urban forest management programs that include  
21 community and urban forestry inventories, assessments, plans,  
22 ordinances, maintenance programs, partnerships, and community  
23 involvement.

24 (2)(a) Designation as an evergreen community must include no fewer  
25 than two graduated steps.

26 (b) The first graduated step of designation as an evergreen  
27 community includes satisfaction of the following requirements:

28 (i) The development and implementation of a tree board or tree  
29 department;

30 (ii) The development of a tree care ordinance;

31 (iii) The implementation of a community forestry program with an  
32 annual budget of at least two dollars for every city resident;

33 (iv) Official recognition of arbor day; and

34 (v) The completion of an updated community and urban forest  
35 inventory for the city, town, or county or the formal adoption of an

1 inventory developed for the city, town, or county by the department of  
2 natural resources pursuant to section 4 of this act.

3 (c) The second graduated step of designation as an evergreen  
4 community includes the adoption of evergreen community management plans  
5 and ordinances that exceed the minimum standards in the model evergreen  
6 community management plans and ordinances adopted by the department  
7 under section 10 of this act.

8 (d) The department may require additional graduated steps and  
9 establish the minimum requirements for each recognized step.

10 (3) The department shall develop gateway signage and logos for an  
11 evergreen community.

12 (4) The department shall, unless the duty is assumed by the  
13 governor, recognize, certify, and designate cities, towns, and counties  
14 satisfying the criteria developed under this section as an evergreen  
15 community.

16 (5) Applications for evergreen community status must be submitted  
17 to and evaluated by the department of natural resources.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 76.15 RCW  
19 to read as follows:

20 The department shall manage the application and evaluation of  
21 candidates for evergreen community designation under section 7 of this  
22 act, and forward its recommendations to the department of community,  
23 trade, and economic development.

24 NEW SECTION. **Sec. 9.** (1) The department shall, subject to the  
25 availability of amounts appropriated for this specific purpose,  
26 coordinate with the department of natural resources in the development  
27 and implementation of a needs-based evergreen community grant and  
28 competitive awards program to provide financial assistance to cities,  
29 towns, and counties for the development, adoption, or implementation of  
30 evergreen community management plans or ordinances developed under  
31 section 14 of this act.

32 (2) The grant program authorized in this section shall address both  
33 the goals of rewarding innovation by a successful evergreen community  
34 and of providing resources and assistance to the applicants with the  
35 greatest financial need.

1 (3) The department may only provide grants to cities, towns, or  
2 counties under this chapter that:

3 (a) Are recognized as an evergreen community consistent with  
4 section 7 of this act, or are applying for funds that would aid them in  
5 their pursuit of evergreen community recognition; and

6 (b) Have developed, or are developing urban forest management  
7 partnerships with local not-for-profit organizations.

8 NEW SECTION. **Sec. 10.** (1) To the extent that funds are  
9 appropriated for this specific purpose, the department shall develop  
10 model evergreen community management plans and ordinances pursuant to  
11 sections 12 and 13 of this act with measurable goals and timelines to  
12 guide plan and ordinance adoption or development consistent with  
13 section 14 of this act.

14 (2) Model plans and ordinances developed under this section must:

15 (a) Recognize ecoregional differences in the state;

16 (b) Provide flexibility for the diversity of urban character and  
17 relative differences in density and zoning found in Washington's  
18 cities, towns, and counties;

19 (c) Provide an urban forest landowner inventorying his or her own  
20 property with the ability to access existing inventories, technology,  
21 and other technical assistance available through the department of  
22 natural resources;

23 (d) Recognize and provide for vegetation management practices and  
24 programs that prevent vegetation from interfering with or damaging  
25 utilities, public facilities, and solar panels or buildings  
26 specifically designed to optimize passive solar energy; and

27 (e) Provide for vegetation management practices and programs that  
28 reflect and are consistent with the priorities and goals of the growth  
29 management act, chapter 36.70A RCW.

30 (3) All model plans and ordinances developed by the department must  
31 be developed in conjunction with the evergreen communities partnership  
32 task force created in section 17 of this act.

33 (4) After the development of model evergreen community plans and  
34 ordinances under this section, the department shall, in conjunction  
35 with the department of natural resources, distribute and provide  
36 outreach regarding the model plans and ordinances and associated best

1 management practices to cities, towns, and counties to aid the cities,  
2 towns, and counties in obtaining evergreen community recognition under  
3 section 7 of this act.

4 (5) By December 1, 2010, the department shall, at a minimum,  
5 develop the model evergreen community plans and ordinances required  
6 under this section for areas of the state where the department of  
7 natural resources has completed community and urban forest inventories  
8 pursuant to section 4 of this act.

9 NEW SECTION. **Sec. 11.** (1) The department shall deliver a report  
10 to the appropriate committees of the legislature following the  
11 development of the model evergreen community management plans and  
12 ordinances under section 10 of this act recommending any next steps and  
13 additional incentives to increase voluntary participation by cities,  
14 towns, and counties in the evergreen community recognition program  
15 established in section 7 of this act.

16 (2) By the fifteenth day of each consecutive December leading up to  
17 the adoption of the model evergreen community plans and ordinances, the  
18 department shall deliver a report to the appropriate committees of the  
19 legislature outlining progress made towards the development and  
20 implementation of the model plans and ordinances.

21 NEW SECTION. **Sec. 12.** In the development of model evergreen  
22 community management plans under section 10 of this act, the department  
23 shall consider including, but not be limited to, the following  
24 elements:

25 (1) Inventory and assessment of the jurisdiction's urban and  
26 community forests utilized as a dynamic management tool to set goals,  
27 implement programs, and monitor outcomes that may be adjusted over  
28 time;

29 (2) Canopy cover goals;

30 (3) Reforestation and tree canopy expansion goals within the  
31 city's, town's, and county's boundaries;

32 (4) Restoration of public forests;

33 (5) Achieving forest stand and diversity goals;

34 (6) Maximizing vegetated storm water management with trees and  
35 other vegetation that reduces runoff, increases soil infiltration, and  
36 reduces storm water pollution;

- 1 (7) Environmental health goals specific to air quality, habitat for  
2 wildlife, and energy conservation;
- 3 (8) Vegetation management practices and programs to prevent  
4 vegetation from interfering with or damaging utilities and public  
5 facilities;
- 6 (9) Prioritizing planting sites;
- 7 (10) Standards for tree selection, siting, planting, and pruning;
- 8 (11) Scheduling maintenance and stewardship for new and established  
9 trees;
- 10 (12) Staff and volunteer training requirements emphasizing  
11 appropriate expertise and professionalism;
- 12 (13) Guidelines for protecting existing trees from  
13 construction-related damage and damage related to preserving  
14 territorial views;
- 15 (14) Integrating disease and pest management;
- 16 (15) Wood waste utilization;
- 17 (16) Community outreach, participation, education programs, and  
18 partnerships with nongovernment organizations;
- 19 (17) Time frames for achieving plan goals, objectives, and tasks;
- 20 (18) Monitoring and measuring progress toward those benchmarks and  
21 goals;
- 22 (19) Consistency with the urban wildland interface codes developed  
23 by the state building code council;
- 24 (20) Emphasizing landscape and revegetation plans in residential  
25 and commercial development areas where tree retention objectives are  
26 challenging to achieve; and
- 27 (21) Maximizing building heating and cooling energy efficiency  
28 through appropriate siting of trees for summer shading, passive solar  
29 heating in winter, and for wind breaks.

30 NEW SECTION. **Sec. 13.** The department shall, in the development of  
31 model evergreen community ordinances under section 10 of this act,  
32 consider including, but not be limited to, the following policy  
33 elements:

- 34 (1) Tree canopy cover, density, and spacing;
- 35 (2) Tree conservation and retention;
- 36 (3) Vegetated storm water runoff management using native trees and  
37 appropriate nonnative, nonnaturalized vegetation;

1 (4) Clearing, grading, protection of soils, reductions in soil  
2 compaction, and use of appropriate soils with low runoff potential and  
3 high infiltration rates;

4 (5) Appropriate tree siting and maintenance for vegetation  
5 management practices and programs to prevent vegetation from  
6 interfering with or damaging utilities and public facilities;

7 (6) Native species and nonnative, nonnaturalized species diversity  
8 selection to reduce disease and pests in urban forests;

9 (7) Tree maintenance;

10 (8) Street tree installation and maintenance;

11 (9) Tree and vegetation buffers for riparian areas, critical areas,  
12 transportation and utility corridors, and commercial and residential  
13 areas;

14 (10) Tree assessments for new construction permitting;

15 (11) Recommended forest conditions for different land use types;

16 (12) Variances for hardship and safety;

17 (13) Variances to avoid conflicts with renewable solar energy  
18 infrastructure, passive solar building design, and locally grown  
19 produce; and

20 (14) Permits and appeals.

21 NEW SECTION. **Sec. 14.** (1) A city, town, or county may adopt  
22 evergreen community management plans and ordinances, including  
23 enforcement mechanisms and civil penalties for violations of its  
24 evergreen community ordinances.

25 (2) Evergreen community ordinances adopted under this section may  
26 not prohibit or conflict with vegetation management practices and  
27 programs undertaken to prevent vegetation from interfering with or  
28 damaging utilities and public facilities.

29 (3) Management plans developed by cities, towns, or counties must  
30 be based on urban forest inventories for the city, town, or county  
31 covered by the management plan. The city, town, or county developing  
32 the management plan may produce independent inventories themselves or  
33 rely solely on inventories developed, commissioned, or approved by the  
34 department of natural resources under chapter 76.15 RCW.

35 (4) Cities, towns, or counties may establish a local evergreen  
36 community advisory board or utilize existing citizen boards focused on

1 municipal tree issues to achieve appropriate expert and stakeholder  
2 participation in the adoption and development of inventories,  
3 assessments, ordinances, and plans consistent with this chapter.

4 (5) A city, town, or county shall invite the expert advice of  
5 utilities serving within its jurisdiction for the purpose of developing  
6 and adopting appropriate plans for vegetation management practices and  
7 programs to prevent vegetation from interfering with or damaging  
8 utilities and public facilities.

9 NEW SECTION. **Sec. 15.** A new section is added to chapter 36.01 RCW  
10 to read as follows:

11 (1) Any county may adopt evergreen community ordinances, as that  
12 term is defined in section 2 of this act, which the county must apply  
13 to new building or land development in the unincorporated portions of  
14 the county's urban growth areas, as that term is defined in RCW  
15 36.70A.030, and may apply to other areas of the county as deemed  
16 appropriate by the county.

17 (2) As an alternative to subsection (1) of this section, a city or  
18 town may request that the county in which it is located apply to any  
19 new building or land development permit in the unincorporated portions  
20 of the urban growth areas, as defined in RCW 36.70A.030, the evergreen  
21 community ordinances standards adopted under section 14 of this act by  
22 the city or town in the county located closest to the proposed building  
23 or development.

24 NEW SECTION. **Sec. 16.** (1) A city, town, or county seeking  
25 evergreen community recognition under section 7 of this act shall  
26 submit its management plans and evergreen community ordinances to the  
27 department for review and comment at least sixty days prior to its  
28 planned implementation date.

29 (2) The department shall, together with the department of natural  
30 resources, review any evergreen community ordinances or management  
31 plans submitted. When reviewing ordinances or plans under this  
32 section, the department shall focus its review on the plan's  
33 consistency with this chapter and the model evergreen community  
34 management plans and ordinances adopted under section 10 of this act.  
35 When the following entities submit evergreen community ordinances and  
36 management plans for review, they must be considered by the department,

1 together with the department of natural resources, the department of  
2 fish and wildlife, and the Puget Sound partnership: A county adjacent  
3 to Puget Sound or any city located within any of those counties. The  
4 reviewing departments may provide written comments on both plans and  
5 ordinances.

6 (3) Together with the department of natural resources, the  
7 department may offer technical assistance in the development of  
8 evergreen community ordinances and management plans.

9 NEW SECTION. **Sec. 17.** (1) The director of the department shall  
10 assemble and convene the evergreen communities partnership task force  
11 of no more than twenty-five individuals to aid and advise the  
12 department in the administration of this chapter.

13 (2) At the discretion of the department, the task force may be  
14 disbanded once the urban and community forests assessments conducted by  
15 the department of natural resources under section 4 of this act and the  
16 model evergreen community management plans and ordinances developed  
17 under section 10 of this act are completed.

18 (3) Representatives of the department of natural resources and the  
19 department of ecology shall participate in the task force.

20 (4) The department shall invite individuals representing the  
21 following entities to serve on the task force:

22 (a) A statewide council representing urban and community forestry  
23 programs authorized under RCW 76.15.020;

24 (b) A conservation organization with expertise in Puget Sound storm  
25 water management;

26 (c) At least two cities, one from a city east and one from a city  
27 west of the crest of the Cascade mountains;

28 (d) At least two counties, one from a county east and one from a  
29 county west of the crest of the Cascade mountains;

30 (e) Two land development professionals or representative  
31 associations representing development professionals affected by tree  
32 retention ordinances and storm water management policies;

33 (f) A national conservation organization with a network of chapter  
34 volunteers working to conserve habitat for birds and wildlife;

35 (g) A land trust conservation organization facilitating urban  
36 forest management partnerships;

1 (h) A national conservation organization with expertise in  
2 backyard, schoolyard, and community wildlife habitat development;

3 (i) A public works professional;

4 (j) A private utility;

5 (k) A national forest land trust exclusively dedicated to  
6 sustaining America's vast and vital private forests and safeguarding  
7 their many public benefits;

8 (l) Professionals with expertise in local land use planning,  
9 housing, or infrastructure; and

10 (m) The timber industry.

11 (5) The department is encouraged to recruit task force members who  
12 are able to represent two or more of the stakeholder groups listed in  
13 subsection (4) of this section.

14 (6) In assembling the task force, the department shall strive to  
15 achieve representation from as many of the state's major ecoregions as  
16 possible.

17 (7) Each member of the task force shall serve without compensation.  
18 Task force members that are not state employees may be reimbursed for  
19 travel expenses as authorized in RCW 43.03.050 and 43.03.060.

20 NEW SECTION. **Sec. 18.** Nothing in this chapter may be construed  
21 to:

22 (1) Conflict or supersede with any requirements, duties, or  
23 objectives placed on local governments under chapter 36.70A RCW with  
24 specific emphasis on allowing cities and unincorporated urban growth  
25 areas to achieve their desired residential densities in a manner and  
26 character consistent with RCW 36.70A.110; or

27 (2) Apply to lands designated under chapters 76.09, 79.70, 79.71,  
28 84.33, and 84.34 RCW.

29 **Sec. 19.** RCW 35.92.390 and 1993 c 204 s 2 are each amended to read  
30 as follows:

31 (1) Municipal utilities under this chapter are encouraged to  
32 provide information to their customers regarding landscaping that  
33 includes tree planting for energy conservation.

34 (2)(a) Municipal utilities under this chapter are encouraged to  
35 request voluntary donations from their customers for the purposes of

1 urban forestry. The request may be in the form of a check-off on the  
2 billing statement or other form of request for a voluntary donation.

3 (b) Voluntary donations collected by municipal utilities under this  
4 section may be used by the municipal utility to:

5 (i) Support the development and implementation of evergreen  
6 community ordinances, as that term is defined in section 2 of this act,  
7 for cities, towns, or counties within their service areas; or

8 (ii) Complete projects consistent with the model evergreen  
9 community management plans and ordinances developed under section 10 of  
10 this act.

11 (c) Donations received under this section do not contribute to the  
12 gross income of a light and power business or gas distribution business  
13 under chapter 82.16 RCW.

14 **Sec. 20.** RCW 35A.80.040 and 1993 c 204 s 3 are each amended to  
15 read as follows:

16 (1) Code cities providing utility services under this chapter are  
17 encouraged to provide information to their customers regarding  
18 landscaping that includes tree planting for energy conservation.

19 (2)(a) Code cities providing utility services under this chapter  
20 are encouraged to request voluntary donations from their customers for  
21 the purposes of urban forestry. The request may be in the form of a  
22 check-off on the billing statement or other form of a request for a  
23 voluntary donation.

24 (b) Voluntary donations collected by code cities under this section  
25 may be used by the code city to:

26 (i) Support the development and implementation of evergreen  
27 community ordinances, as that term is defined in section 2 of this act,  
28 for cities, towns, or counties within their service areas; or

29 (ii) Complete projects consistent with the model evergreen  
30 community management plans and ordinances developed under section 10 of  
31 this act.

32 (c) Donations received under this section do not contribute to the  
33 gross income of a light and power business or gas distribution business  
34 under chapter 82.16 RCW.

35 **Sec. 21.** RCW 80.28.300 and 1993 c 204 s 4 are each amended to read  
36 as follows:

1 (1) Gas companies and electrical companies under this chapter  
2 (~~may~~) are encouraged to provide information to their customers  
3 regarding landscaping that includes tree planting for energy  
4 conservation.

5 (2)(a) Gas companies and electrical companies under this chapter  
6 may request voluntary donations from their customers for the purposes  
7 of urban forestry. The request may be in the form of a check-off on  
8 the billing statement or other form of a request for a voluntary  
9 donation.

10 (b) Voluntary donations collected by gas companies and electrical  
11 companies under this section may be used by the gas companies and  
12 electrical companies to:

13 (i) Support the development and implementation of evergreen  
14 community ordinances, as that term is defined in section 2 of this act,  
15 for cities, towns, or counties within their service areas; or

16 (ii) Complete projects consistent with the model evergreen  
17 community management plans and ordinances developed under section 10 of  
18 this act.

19 (c) Donations received under this section do not contribute to the  
20 gross income of a light and power business or gas distribution business  
21 under chapter 82.16 RCW.

22 NEW SECTION. Sec. 22. A new section is added to chapter 54.16 RCW  
23 to read as follows:

24 (1) Public utility districts may request voluntary donations from  
25 their customers for the purposes of urban forestry. The request may be  
26 in the form of a check-off on the billing statement or other form of a  
27 request for a voluntary donation.

28 (2) Voluntary donations collected by public utility districts under  
29 this section may be used by the public utility district to:

30 (a) Support the development and implementation of evergreen  
31 community ordinances, as that term is defined in section 2 of this act,  
32 for cities, towns, or counties within their service areas; or

33 (b) Complete projects consistent with the model evergreen community  
34 management plans and ordinances developed under section 10 of this act.

35 (3) Donations received under this section do not contribute to the  
36 gross income of a light and power business or gas distribution business  
37 under chapter 82.16 RCW.

1       **Sec. 23.** RCW 76.15.010 and 2000 c 11 s 15 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Community and urban forest" is that land in and around human  
6 settlements ranging from small communities to metropolitan areas,  
7 occupied or potentially occupied by trees and associated vegetation.  
8 Community and urban forest land may be planted or unplanted, used or  
9 unused, and includes public and private lands, lands along  
10 transportation and utility corridors, and forested watershed lands  
11 within populated areas.

12       (2) "Community and urban forest assessment" has the same meaning as  
13 defined in section 2 of this act.

14       (3) "Community and urban forest inventory" has the same meaning as  
15 defined in section 2 of this act.

16       (4) "Community and urban forestry" means the planning,  
17 establishment, protection, care, and management of trees and associated  
18 plants individually, in small groups, or under forest conditions within  
19 municipalities and counties.

20       (~~(3)~~) (5) "Department" means the department of natural resources.

21       (~~(4)~~) (6) "Municipality" means a city, town, port district,  
22 public school district, community college district, irrigation  
23 district, weed control district, park district, or other political  
24 subdivision of the state.

25       (~~(5)~~) (7) "Person" means an individual, partnership, private or  
26 public municipal corporation, Indian tribe, state entity, county or  
27 local governmental entity, or association of individuals of whatever  
28 nature.

29       NEW SECTION. **Sec. 24.** (1) In an effort to better understand the  
30 needs of cities, towns, and counties interested in pursuing designation  
31 as an evergreen community under section 7 of this act, the legislature  
32 intends to encourage cities, towns, and counties to:

33       (a) Identify their interests in becoming an evergreen community;  
34 and

35       (b) Identify community and urban forests within their applicable  
36 urban growth areas that are appropriately situated for the city, town,

1 or county to assume ownership from willing sellers for urban forest  
2 management purposes consistent with this act.

3 (2) If a city, town, or county opts to provide a list of identified  
4 properties under this section, including the estimated value of the  
5 properties and documentation on the owner's willingness to participate,  
6 the information must be provided to the department by October 31, 2008.

7 (3) The department must report a summary of the properties reported  
8 to it under this section, along with the itemized and summarized  
9 estimated costs involved with the purchases, to the appropriate  
10 committees of the legislature by December 15, 2008.

11 (4) This section expires July 31, 2009.

12 **Sec. 25.** RCW 43.155.070 and 2007 c 341 s 24 and 2007 c 231 s 2 are  
13 each reenacted and amended to read as follows:

14 (1) To qualify for loans or pledges under this chapter the board  
15 must determine that a local government meets all of the following  
16 conditions:

17 (a) The city or county must be imposing a tax under chapter 82.46  
18 RCW at a rate of at least one-quarter of one percent;

19 (b) The local government must have developed a capital facility  
20 plan; and

21 (c) The local government must be using all local revenue sources  
22 which are reasonably available for funding public works, taking into  
23 consideration local employment and economic factors.

24 (2) Except where necessary to address a public health need or  
25 substantial environmental degradation, a county, city, or town planning  
26 under RCW 36.70A.040 must have adopted a comprehensive plan, including  
27 a capital facilities plan element, and development regulations as  
28 required by RCW 36.70A.040. This subsection does not require any  
29 county, city, or town planning under RCW 36.70A.040 to adopt a  
30 comprehensive plan or development regulations before requesting or  
31 receiving a loan or loan guarantee under this chapter if such request  
32 is made before the expiration of the time periods specified in RCW  
33 36.70A.040. A county, city, or town planning under RCW 36.70A.040  
34 which has not adopted a comprehensive plan and development regulations  
35 within the time periods specified in RCW 36.70A.040 is not prohibited  
36 from receiving a loan or loan guarantee under this chapter if the

1 comprehensive plan and development regulations are adopted as required  
2 by RCW 36.70A.040 before submitting a request for a loan or loan  
3 guarantee.

4 (3) In considering awarding loans for public facilities to special  
5 districts requesting funding for a proposed facility located in a  
6 county, city, or town planning under RCW 36.70A.040, the board shall  
7 consider whether the county, city, or town planning under RCW  
8 36.70A.040 in whose planning jurisdiction the proposed facility is  
9 located has adopted a comprehensive plan and development regulations as  
10 required by RCW 36.70A.040.

11 (4) The board shall develop a priority process for public works  
12 projects as provided in this section. The intent of the priority  
13 process is to maximize the value of public works projects accomplished  
14 with assistance under this chapter. The board shall attempt to assure  
15 a geographical balance in assigning priorities to projects. The board  
16 shall consider at least the following factors in assigning a priority  
17 to a project:

18 (a) Whether the local government receiving assistance has  
19 experienced severe fiscal distress resulting from natural disaster or  
20 emergency public works needs;

21 (b) Except as otherwise conditioned by RCW 43.155.110, whether the  
22 entity receiving assistance is a Puget Sound partner, as defined in RCW  
23 90.71.010;

24 (c) Whether the project is referenced in the action agenda  
25 developed by the Puget Sound partnership under RCW 90.71.310;

26 (d) Whether the project is critical in nature and would affect the  
27 health and safety of a great number of citizens;

28 (e) Whether the applicant has developed and adhered to guidelines  
29 regarding its permitting process for those applying for development  
30 permits consistent with section 1(2), chapter 231, Laws of 2007;

31 (f) The cost of the project compared to the size of the local  
32 government and amount of loan money available;

33 (g) The number of communities served by or funding the project;

34 (h) Whether the project is located in an area of high unemployment,  
35 compared to the average state unemployment;

36 (i) Whether the project is the acquisition, expansion, improvement,  
37 or renovation by a local government of a public water system that is in

1 violation of health and safety standards, including the cost of  
2 extending existing service to such a system;

3 (j) Except as otherwise conditioned by section 30 of this act, and  
4 effective one calendar year following the development of model  
5 evergreen community management plans and ordinances under section 10 of  
6 this act, whether the entity receiving assistance has been recognized,  
7 and what gradation of recognition was received, in the evergreen  
8 community recognition program created in section 7 of this act;

9 (k) The relative benefit of the project to the community,  
10 considering the present level of economic activity in the community and  
11 the existing local capacity to increase local economic activity in  
12 communities that have low economic growth; and

13 (~~(k)~~) (l) Other criteria that the board considers advisable.

14 (5) Existing debt or financial obligations of local governments  
15 shall not be refinanced under this chapter. Each local government  
16 applicant shall provide documentation of attempts to secure additional  
17 local or other sources of funding for each public works project for  
18 which financial assistance is sought under this chapter.

19 (6) Before November 1st of each year, the board shall develop and  
20 submit to the appropriate fiscal committees of the senate and house of  
21 representatives a description of the loans made under RCW 43.155.065,  
22 43.155.068, and subsection (9) of this section during the preceding  
23 fiscal year and a prioritized list of projects which are recommended  
24 for funding by the legislature, including one copy to the staff of each  
25 of the committees. The list shall include, but not be limited to, a  
26 description of each project and recommended financing, the terms and  
27 conditions of the loan or financial guarantee, the local government  
28 jurisdiction and unemployment rate, demonstration of the jurisdiction's  
29 critical need for the project and documentation of local funds being  
30 used to finance the public works project. The list shall also include  
31 measures of fiscal capacity for each jurisdiction recommended for  
32 financial assistance, compared to authorized limits and state averages,  
33 including local government sales taxes; real estate excise taxes;  
34 property taxes; and charges for or taxes on sewerage, water, garbage,  
35 and other utilities.

36 (7) The board shall not sign contracts or otherwise financially  
37 obligate funds from the public works assistance account before the  
38 legislature has appropriated funds for a specific list of public works

1 projects. The legislature may remove projects from the list  
2 recommended by the board. The legislature shall not change the order  
3 of the priorities recommended for funding by the board.

4 (8) Subsection (7) of this section does not apply to loans made  
5 under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

6 (9) Loans made for the purpose of capital facilities plans shall be  
7 exempted from subsection (7) of this section.

8 (10) To qualify for loans or pledges for solid waste or recycling  
9 facilities under this chapter, a city or county must demonstrate that  
10 the solid waste or recycling facility is consistent with and necessary  
11 to implement the comprehensive solid waste management plan adopted by  
12 the city or county under chapter 70.95 RCW.

13 (11) After January 1, 2010, any project designed to address the  
14 effects of storm water or wastewater on Puget Sound may be funded under  
15 this section only if the project is not in conflict with the action  
16 agenda developed by the Puget Sound partnership under RCW 90.71.310.

17 **Sec. 26.** RCW 70.146.070 and 2007 c 341 s 60 and 2007 c 341 s 26  
18 are each reenacted and amended to read as follows:

19 (1) When making grants or loans for water pollution control  
20 facilities, the department shall consider the following:

21 (a) The protection of water quality and public health;

22 (b) The cost to residential ratepayers if they had to finance water  
23 pollution control facilities without state assistance;

24 (c) Actions required under federal and state permits and compliance  
25 orders;

26 (d) The level of local fiscal effort by residential ratepayers  
27 since 1972 in financing water pollution control facilities;

28 (e) Except as otherwise conditioned by RCW 70.146.110, whether the  
29 entity receiving assistance is a Puget Sound partner, as defined in RCW  
30 90.71.010;

31 (f) Whether the project is referenced in the action agenda  
32 developed by the Puget Sound partnership under RCW 90.71.310;

33 (g) Except as otherwise provided in section 31 of this act, and  
34 effective one calendar year following the development and statewide  
35 availability of model evergreen community management plans and  
36 ordinances under section 10 of this act, whether the project is

1 sponsored by an entity that has been recognized, and what gradation of  
2 recognition was received, in the evergreen community recognition  
3 program created in section 7 of this act;

4 (h) The extent to which the applicant county or city, or if the  
5 applicant is another public body, the extent to which the county or  
6 city in which the applicant public body is located, has established  
7 programs to mitigate nonpoint pollution of the surface or subterranean  
8 water sought to be protected by the water pollution control facility  
9 named in the application for state assistance; and

10 ((+h+)) (i) The recommendations of the Puget Sound partnership,  
11 created in RCW 90.71.210, and any other board, council, commission, or  
12 group established by the legislature or a state agency to study water  
13 pollution control issues in the state.

14 (2) Except where necessary to address a public health need or  
15 substantial environmental degradation, a county, city, or town planning  
16 under RCW 36.70A.040 may not receive a grant or loan for water  
17 pollution control facilities unless it has adopted a comprehensive  
18 plan, including a capital facilities plan element, and development  
19 regulations as required by RCW 36.70A.040. This subsection does not  
20 require any county, city, or town planning under RCW 36.70A.040 to  
21 adopt a comprehensive plan or development regulations before requesting  
22 or receiving a grant or loan under this chapter if such request is made  
23 before the expiration of the time periods specified in RCW 36.70A.040.  
24 A county, city, or town planning under RCW 36.70A.040 which has not  
25 adopted a comprehensive plan and development regulations within the  
26 time periods specified in RCW 36.70A.040 is not prohibited from  
27 receiving a grant or loan under this chapter if the comprehensive plan  
28 and development regulations are adopted as required by RCW 36.70A.040  
29 before submitting a request for a grant or loan.

30 (3) Whenever the department is considering awarding grants or loans  
31 for public facilities to special districts requesting funding for a  
32 proposed facility located in a county, city, or town planning under RCW  
33 36.70A.040, it shall consider whether the county, city, or town  
34 planning under RCW 36.70A.040 in whose planning jurisdiction the  
35 proposed facility is located has adopted a comprehensive plan and  
36 development regulations as required by RCW 36.70A.040.

37 (4) After January 1, 2010, any project designed to address the

1 effects of water pollution on Puget Sound may be funded under this  
2 chapter only if the project is not in conflict with the action agenda  
3 developed by the Puget Sound partnership under RCW 90.71.310.

4 **Sec. 27.** RCW 89.08.520 and 2007 c 341 s 28 are each amended to  
5 read as follows:

6 (1) In administering grant programs to improve water quality and  
7 protect habitat, the commission shall:

8 (a) Require grant recipients to incorporate the environmental  
9 benefits of the project into their grant applications;

10 (b) In its grant prioritization and selection process, consider:

11 (i) The statement of environmental benefits;

12 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant  
13 is a Puget Sound partner, as defined in RCW 90.71.010, and except as  
14 otherwise provided in section 32 of this act, and effective one  
15 calendar year following the development and statewide availability of  
16 model evergreen community management plans and ordinances under section  
17 10 of this act, whether the applicant is an entity that has been  
18 recognized, and what gradation of recognition was received, in the  
19 evergreen community recognition program created in section 7 of this  
20 act; and

21 (iii) Whether the project is referenced in the action agenda  
22 developed by the Puget Sound partnership under RCW 90.71.310; and

23 (c) Not provide funding, after January 1, 2010, for projects  
24 designed to address the restoration of Puget Sound that are in conflict  
25 with the action agenda developed by the Puget Sound partnership under  
26 RCW 90.71.310.

27 (2)(a) The commission shall also develop appropriate outcome-  
28 focused performance measures to be used both for management and  
29 performance assessment of the grant program.

30 (b) The commission shall work with the districts to develop uniform  
31 performance measures across participating districts and, to the extent  
32 possible, the commission should coordinate its performance measure  
33 system with other natural resource-related agencies as defined in RCW  
34 43.41.270. The commission shall consult with affected interest groups  
35 in implementing this section.

1       **Sec. 28.** RCW 79.105.150 and 2007 c 341 s 32 are each amended to  
2 read as follows:

3       (1) After deduction for management costs as provided in RCW  
4 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys  
5 received by the state from the sale or lease of state-owned aquatic  
6 lands and from the sale of valuable material from state-owned aquatic  
7 lands shall be deposited in the aquatic lands enhancement account which  
8 is hereby created in the state treasury. After appropriation, these  
9 funds shall be used solely for aquatic lands enhancement projects; for  
10 the purchase, improvement, or protection of aquatic lands for public  
11 purposes; for providing and improving access to the lands; and for  
12 volunteer cooperative fish and game projects.

13       (2) In providing grants for aquatic lands enhancement projects, the  
14 (~~interagency committee for outdoor~~) recreation and conservation  
15 funding board shall:

16       (a) Require grant recipients to incorporate the environmental  
17 benefits of the project into their grant applications;

18       (b) Utilize the statement of environmental benefits, consideration,  
19 except as provided in RCW 79.105.610, of whether the applicant is a  
20 Puget Sound partner, as defined in RCW 90.71.010, (~~and~~) whether a  
21 project is referenced in the action agenda developed by the Puget Sound  
22 partnership under RCW 90.71.310, and except as otherwise provided in  
23 section 33 of this act, and effective one calendar year following the  
24 development and statewide availability of model evergreen community  
25 management plans and ordinances under section 10 of this act, whether  
26 the applicant is an entity that has been recognized, and what gradation  
27 of recognition was received, in the evergreen community recognition  
28 program created in section 7 of this act in its prioritization and  
29 selection process; and

30       (c) Develop appropriate outcome-focused performance measures to be  
31 used both for management and performance assessment of the grants.

32       (3) To the extent possible, the department should coordinate its  
33 performance measure system with other natural resource-related agencies  
34 as defined in RCW 43.41.270.

35       (4) The department shall consult with affected interest groups in  
36 implementing this section.

37       (5) After January 1, 2010, any project designed to address the

1 restoration of Puget Sound may be funded under this chapter only if the  
2 project is not in conflict with the action agenda developed by the  
3 Puget Sound partnership under RCW 90.71.310.

4 **Sec. 29.** RCW 79A.15.040 and 2007 c 341 s 34 and 2007 c 241 s 29  
5 are each reenacted and amended to read as follows:

6 (1) Moneys appropriated for this chapter to the habitat  
7 conservation account shall be distributed in the following way:

8 (a) Not less than forty percent through June 30, 2011, at which  
9 time the amount shall become forty-five percent, for the acquisition  
10 and development of critical habitat;

11 (b) Not less than thirty percent for the acquisition and  
12 development of natural areas;

13 (c) Not less than twenty percent for the acquisition and  
14 development of urban wildlife habitat; and

15 (d) Not less than ten percent through June 30, 2011, at which time  
16 the amount shall become five percent, shall be used by the board to  
17 fund restoration and enhancement projects on state lands. Only the  
18 department of natural resources and the department of fish and wildlife  
19 may apply for these funds to be used on existing habitat and natural  
20 area lands.

21 (2)(a) In distributing these funds, the board retains discretion to  
22 meet the most pressing needs for critical habitat, natural areas, and  
23 urban wildlife habitat, and is not required to meet the percentages  
24 described in subsection (1) of this section in any one biennium.

25 (b) If not enough project applications are submitted in a category  
26 within the habitat conservation account to meet the percentages  
27 described in subsection (1) of this section in any biennium, the board  
28 retains discretion to distribute any remaining funds to the other  
29 categories within the account.

30 (3) Only state agencies may apply for acquisition and development  
31 funds for natural areas projects under subsection (1)(b) of this  
32 section.

33 (4) State and local agencies may apply for acquisition and  
34 development funds for critical habitat and urban wildlife habitat  
35 projects under subsection (1)(a) and (c) of this section.

36 (5)(a) Any lands that have been acquired with grants under this

1 section by the department of fish and wildlife are subject to an amount  
2 in lieu of real property taxes and an additional amount for control of  
3 noxious weeds as determined by RCW 77.12.203.

4 (b) Any lands that have been acquired with grants under this  
5 section by the department of natural resources are subject to payments  
6 in the amounts required under the provisions of RCW 79.70.130 and  
7 79.71.130.

8 (6)((~~a~~)) Except as otherwise conditioned by RCW 79A.15.140 or  
9 section 34 of this act, the ((~~committee~~)) board in its evaluating  
10 process shall consider the following in determining distribution  
11 priority:

12 ((~~i~~)) (a) Whether the entity applying for funding is a Puget  
13 Sound partner, as defined in RCW 90.71.010; ((~~and~~

14 (~~ii~~)) (b) Effective one calendar year following the development  
15 and statewide availability of model evergreen community management  
16 plans and ordinances under section 10 of this act, whether the entity  
17 receiving assistance has been recognized, and what gradation of  
18 recognition was received, in the evergreen community recognition  
19 program created in section 7 of this act; and

20 (c) Whether the project is referenced in the action agenda  
21 developed by the Puget Sound partnership under RCW 90.71.310.

22 (7) After January 1, 2010, any project designed to address the  
23 restoration of Puget Sound may be funded under this chapter only if the  
24 project is not in conflict with the action agenda developed by the  
25 Puget Sound partnership under RCW 90.71.310.

26 NEW SECTION. Sec. 30. A new section is added to chapter 43.155  
27 RCW to read as follows:

28 When administering funds under this chapter, the board shall give  
29 preference only to an evergreen community recognized under section 7 of  
30 this act in comparison to other entities that are eligible to receive  
31 evergreen community designation. Entities not eligible for designation  
32 as an evergreen community shall not be given less preferential  
33 treatment than an evergreen community.

34 NEW SECTION. Sec. 31. A new section is added to chapter 70.146  
35 RCW to read as follows:

36 When administering funds under this chapter, the department shall

1 give preference only to an evergreen community recognized under section  
2 7 of this act in comparison to other entities that are eligible to  
3 receive evergreen community designation. Entities not eligible for  
4 designation as an evergreen community shall not be given less  
5 preferential treatment than an evergreen community.

6 NEW SECTION. **Sec. 32.** A new section is added to chapter 89.08 RCW  
7 to read as follows:

8 When administering funds under this chapter, the commission shall  
9 give preference only to an evergreen community recognized under section  
10 7 of this act in comparison to other entities that are eligible to  
11 receive evergreen community designation. Entities not eligible for  
12 designation as an evergreen community shall not be given less  
13 preferential treatment than an evergreen community.

14 NEW SECTION. **Sec. 33.** A new section is added to chapter 79.105  
15 RCW to read as follows:

16 When administering funds under this chapter, the recreation and  
17 conservation funding board shall give preference only to an evergreen  
18 community recognized under section 7 of this act in comparison to other  
19 entities that are eligible to receive evergreen community designation.  
20 Entities not eligible for designation as an evergreen community shall  
21 not be given less preferential treatment than an evergreen community.

22 NEW SECTION. **Sec. 34.** A new section is added to chapter 79A.15  
23 RCW to read as follows:

24 When administering funds under this chapter, the recreation and  
25 conservation funding board shall give preference only to an evergreen  
26 community recognized under section 7 of this act in comparison to other  
27 entities that are eligible to receive evergreen community designation.  
28 Entities not eligible for designation as an evergreen community shall  
29 not be given less preferential treatment than an evergreen community.

30 **Sec. 35.** RCW 80.28.010 and 1995 c 399 s 211 are each amended to  
31 read as follows:

32 (1) All charges made, demanded or received by any gas company,  
33 electrical company or water company for gas, electricity or water, or  
34 for any service rendered or to be rendered in connection therewith,

1 shall be just, fair, reasonable and sufficient. Reasonable charges  
2 necessary to cover the cost of administering the collection of  
3 voluntary donations for the purposes of supporting the development and  
4 implementation of evergreen community management plans and ordinances  
5 under RCW 80.28.300 shall be deemed as prudent and necessary for the  
6 operation of a utility.

7 (2) Every gas company, electrical company and water company shall  
8 furnish and supply such service, instrumentalities and facilities as  
9 shall be safe, adequate and efficient, and in all respects just and  
10 reasonable.

11 (3) All rules and regulations issued by any gas company, electrical  
12 company or water company, affecting or pertaining to the sale or  
13 distribution of its product, shall be just and reasonable.

14 (4) Utility service for residential space heating shall not be  
15 terminated between November 15 through March 15 if the customer:

16 (a) Notifies the utility of the inability to pay the bill,  
17 including a security deposit. This notice should be provided within  
18 five business days of receiving a payment overdue notice unless there  
19 are extenuating circumstances. If the customer fails to notify the  
20 utility within five business days and service is terminated, the  
21 customer can, by paying reconnection charges, if any, and fulfilling  
22 the requirements of this section, receive the protections of this  
23 chapter;

24 (b) Provides self-certification of household income for the prior  
25 twelve months to a grantee of the department of community, trade, and  
26 economic development which administers federally funded energy  
27 assistance programs. The grantee shall determine that the household  
28 income does not exceed the maximum allowed for eligibility under the  
29 state's plan for low-income energy assistance under 42 U.S.C. 8624 and  
30 shall provide a dollar figure that is seven percent of household  
31 income. The grantee may verify information provided in the self-  
32 certification;

33 (c) Has applied for home heating assistance from applicable  
34 government and private sector organizations and certifies that any  
35 assistance received will be applied to the current bill and future  
36 utility bills;

37 (d) Has applied for low-income weatherization assistance to the

1 utility or other appropriate agency if such assistance is available for  
2 the dwelling;

3 (e) Agrees to a payment plan and agrees to maintain the payment  
4 plan. The plan will be designed both to pay the past due bill by the  
5 following October 15 and to pay for continued utility service. If the  
6 past due bill is not paid by the following October 15, the customer  
7 shall not be eligible for protections under this chapter until the past  
8 due bill is paid. The plan shall not require monthly payments in  
9 excess of seven percent of the customer's monthly income plus one-  
10 twelfth of any arrearage accrued from the date application is made and  
11 thereafter during November 15 through March 15. A customer may agree  
12 to pay a higher percentage during this period, but shall not be in  
13 default unless payment during this period is less than seven percent of  
14 monthly income plus one-twelfth of any arrearage accrued from the date  
15 application is made and thereafter. If assistance payments are  
16 received by the customer subsequent to implementation of the plan, the  
17 customer shall contact the utility to reformulate the plan; and

18 (f) Agrees to pay the moneys owed even if he or she moves.

19 (5) The utility shall:

20 (a) Include in any notice that an account is delinquent and that  
21 service may be subject to termination, a description of the customer's  
22 duties in this section;

23 (b) Assist the customer in fulfilling the requirements under this  
24 section;

25 (c) Be authorized to transfer an account to a new residence when a  
26 customer who has established a plan under this section moves from one  
27 residence to another within the same utility service area;

28 (d) Be permitted to disconnect service if the customer fails to  
29 honor the payment program. Utilities may continue to disconnect  
30 service for those practices authorized by law other than for nonpayment  
31 as provided for in this subsection. Customers who qualify for payment  
32 plans under this section who default on their payment plans and are  
33 disconnected can be reconnected and maintain the protections afforded  
34 under this chapter by paying reconnection charges, if any, and by  
35 paying all amounts that would have been due and owing under the terms  
36 of the applicable payment plan, absent default, on the date on which  
37 service is reconnected; and

1 (e) Advise the customer in writing at the time it disconnects  
2 service that it will restore service if the customer contacts the  
3 utility and fulfills the other requirements of this section.

4 (6) A payment plan implemented under this section is consistent  
5 with RCW 80.28.080.

6 (7) Every gas company and electrical company shall offer  
7 residential customers the option of a budget billing or equal payment  
8 plan. The budget billing or equal payment plan shall be offered low-  
9 income customers eligible under the state's plan for low-income energy  
10 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without  
11 limiting availability to certain months of the year, without regard to  
12 the length of time the customer has occupied the premises, and without  
13 regard to whether the customer is the tenant or owner of the premises  
14 occupied.

15 (8) Every gas company, electrical company and water company shall  
16 construct and maintain such facilities in connection with the  
17 manufacture and distribution of its product as will be efficient and  
18 safe to its employees and the public.

19 (9) An agreement between the customer and the utility, whether oral  
20 or written, shall not waive the protections afforded under this  
21 chapter.

22 (10) In establishing rates or charges for water service, water  
23 companies as defined in RCW 80.04.010 may consider the achievement of  
24 water conservation goals and the discouragement of wasteful water use  
25 practices.

26 NEW SECTION. **Sec. 36.** Sections 1, 2, 6, 7, 9 through 14, 16  
27 through 18, and 24 of this act constitute a new chapter in Title 35  
28 RCW.

29 NEW SECTION. **Sec. 37.** This act may be known and cited as the  
30 evergreen communities act.

31 NEW SECTION. **Sec. 38.** If specific funding for the purposes of  
32 this act, referencing this act by bill or chapter number, is not  
33 provided by June 30, 2008, in the omnibus appropriations act, this act  
34 is null and void."

**ADOPTED 03/06/2008**

1       On page 1, line 2 of the title, after "partnerships;" strike the  
2 remainder of the title and insert "amending RCW 76.15.020, 35.92.390,  
3 35A.80.040, 80.28.300, 76.15.010, 89.08.520, 79.105.150, and 80.28.010;  
4 reenacting and amending RCW 43.155.070, 70.146.070, and 79A.15.040;  
5 adding new sections to chapter 76.15 RCW; adding a new section to  
6 chapter 36.01 RCW; adding a new section to chapter 54.16 RCW; adding a  
7 new section to chapter 43.155 RCW; adding a new section to chapter  
8 70.146 RCW; adding a new section to chapter 89.08 RCW; adding a new  
9 section to chapter 79.105 RCW; adding a new section to chapter 79A.15  
10 RCW; adding a new chapter to Title 35 RCW; creating new sections; and  
11 providing an expiration date."

--- END ---